



DEPARTMENT OF THE NAVY

NAVAL POSTGRADUATE SCHOOL
1 UNIVERSITY CIR
MONTEREY CA 93943-5000

5720 IN REPLY REFER TO:
Ser 00C/059
February 11, 2016

Michael J. Ravnitzky
1905 August Drive
Silver Spring, MD 20902
mikerav@verizon.net

Dear Mr. Ravnitzky,

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST NPS 2016-09

This responds to your email request dated and received on February 10, 2016, assigned case number 2016-09, and it is being treated as a Freedom of Information Act (FOIA) request. In your letter you requested:

A LISTING/PRINTOUT of documents in the Dudley Knox Library Database of RESTRICTED NPS Theses that are dated before 1985.

As a member of the news media, you are considered a noncommercial requester and you are entitled to free search and review time and the first 100 pages of free duplication. You mentioned in your letter that you would pay up to \$35.00 for applicable fees, if necessary.

The records that you seek are not agency records, and thus do not fall under FOIA regulations. The Northern District of California has incorporated the definition of "record" stated in 44 USC 3301. This definition specifically excludes "library and museum material made or acquired and preserved solely for reference or exhibition purposes..." 44 USC 3301; Baizer v. U.S. Air Force, 887 F. Supp. 225 (N. D. Cal. 1995). This exclusion directly relates to the core purpose of the FOIA, which is to inform the public about what their government is doing. Baizer, 887 F. Supp. at 227. Documents that do not provide insight into agency decision making but that are solely provided for reference or research are not agency records. Id. at 227-28.

Because I have denied your request, you may appeal this determination to: Office of the Judge Advocate General, Department of the Navy, ATTN: FOIA APPEALS, 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Please include a copy of your original request, a copy of this letter, your supporting rationale on why the appeal should be granted, and any other information you would like considered in adjudicating your appeal. The appeal must be postmarked no later than 60 calendar days from the date of this letter. There are no fees for this FOIA request.

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If you have any questions, please contact Kris Mastowski, Paralegal, at (831) 656-3388 or kdmastow@nps.edu.

Sincerely,

A handwritten signature in black ink, appearing to read "T. L. Clark", written in a cursive style.

T. L. CLARK
By direction